

REMARKS

The foregoing amendments and these remarks are responsive to the Office Action mailed January 12, 2005 in connection with the above-identified application.

Claim Rejections 35 U.S.C. § 112

In the Action, claims 6 and 11 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner stated that claim 6 was indefinite due to the fact that "an annular pneumatic chamber" in line two is a double recitation. Since claim 6 is redundant in view of claim 1, the Applicant has canceled claim 6 in the foregoing amendments. Claim 11 was rejected for the lack of antecedent basis for "said oil seals" in lines 2-4. In response to this rejection, the Applicant has amended the phrase "said oil seal" in lines 2-4 to recite --said seals--. The limitation of "said seals" is set forth in claim 1, from which claim 11 depends. The Applicant respectfully request reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. § 112 in view of the foregoing amendments.

Claim Objections

Claims 10 and 12 were objected to because they depended from canceled claim 8. In the foregoing amendments, the Applicant has amended claims 10 and 12 to correctly depend from claim 1. The Applicant has corrected the cited informalities, and respectfully requests withdrawal of the claim objections.

Claim Rejections 35 U.S.C. § 103

In the Action, claims 1, 6, and 9-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fox, U.S. Patent No. 5,203,391. Claims 2-5, 7, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fox in further view of Hunt et al., U.S. Patent No. 4,924,697.

The Applicant respectfully submits that Fox does not teach the use of a pressurized chamber for containing bearing lubricants. In the Applicant's invention, the bearings in the wheel hub are enclosed in a sealed pressurized air space so that any lubricant leakage will be detectable by a loss in pressure. The loss of pressure is visually monitored by means of a fixedly mounted pressure gauge. The Applicant has claimed the following:

“A pressurized wheel hub for a trailer having at least one axle, comprising: a wheel hub having bearings that are rotatably securable to the axle; seals between said wheel hub and said axle, said seals forming a closed air space around said bearings . . .”

Fox does not include a closed air space around the bearings, and in fact teaches away from such an arrangement. Fox states:

The bearings 6 and 8 operate at atmospheric pressure, the cavity in which they are located being vented at the relief valve 42 in hub 4. Thus, the lubricant from the bearings 6 and 8 will not migrate toward the source of compressed air. (Col. 6, lines 56-61)

The arrangement disclosed by Fox is actually an example of the type of environmentally-unfriendly prior art systems which the Applicant has sought to improve upon. As stated in

Applicant's original disclosure, prior art systems include vents to keep the lubricant at atmospheric pressure and to allow the lubricant to escape when it expands from overheating. If this arrangement is used for a boat trailer axle, this results in the escaped lubricants being introduced into bodies of water when the boat is launched. It is an objective of Applicant's invention to seal the wheel hub to prevent the release of grease into the water. The Applicant's invention also provides a means to monitor the integrity of this seal by pressurizing the wheel hub and continuously gauging the pressure.

In support of the above-noted rejection, the Examiner stated that "Fox shows a pressurized wheel hub 4 with bearings (6,8) that are rotatably securable to an axle 2. Seals (36 & 130, also 62 & 90) are located between the hub 4 and axle 2 to form a closed air space around the bearings." The Applicant wishes to respectfully point out that this is incorrect. The seals disclosed by Fox do not form a closed air space around the bearings, but rather form a closed air space away from the bearings. The seals in Fox serve to isolate the bearings from the pressurized air space. This is clearly set forth in Fox's summary of the invention:

The present invention resides in a mounting including a hub and a spindle as well as bearings located between the hub and the spindle. A sealed chamber exists at the end of the spindle and remote from the bearings, it being isolated from the bearings by a live seal. (Col. 1, lines 62-66)

The Applicant submits that Fox does not anticipate Applicant's system with regard to claim 1, 6, and 9-11 because Fox does not teach providing a sealed, pressurized airspace around the bearings in a wheel hub. The various components of Fox's wheel hub cooperate to create a

sealed passageway, isolated from the bearings, which routes air from a pressurized air source to the vehicle tire. As explicitly specified by Fox, the bearings and lubricant must be isolated from air passageway so that lubricant does not enter the compressed air source. Therefore, if one were to modify Fox in an attempt to approximate the Applicant's invention by including the bearing in the pressurized chamber, this would adversely affect the operation of the system. If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In view of the foregoing, the Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) of claims 1, 6, and 9-11.

In the Action, claims 2-5, 7, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fox, in further view of Hunt et al. Hunt et al. discloses a standard air pressure gauge. The Applicant submits that this proposed combination would not produce Applicant's invention because, as set forth in detail above, Fox does not disclose a hub with a sealed, pressurized air space around the bearings. The Applicant therefore submits that Applicant's pending claims are patentable over the proposed combination of Fox and Hunt et al., and respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 103(a) of pending claims 2-5, 7, and 12.

Terminal Disclaimer

In the Action, the Examiner stated that the terminal disclaimer filed on October 19, 2004 had been reviewed and not accepted because the person who signed the terminal disclaimer is not of record as being authorized to act of behalf of the assignee.

The Applicant submits herewith an executed Power of Attorney for each of the inventors in the above-identified application appointing the attorneys and agents of the firm of McHale & Slavin as attorneys of record in the above-identified application with authorization to prosecute the application in the U.S. Patent and Trademark Office. The Applicant is also resubmitting an appropriate terminal disclaimer, and respectfully requests that the terminal disclaimer be accepted on the basis that the signer has been authorized by the enclosed Power of Attorney to act on behalf of the Applicant.

Double Patenting

The Examiner provisionally rejected claims 1, 2, and 3-4 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 5-6 of Applicant's co-pending Application No. 10/376,756. The Examiner stated that a timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome an actual or provisional rejection. The Applicant has previously filed a terminal disclaimer which was not accepted because the Applicant's counsel did not have a power of attorney of record in the application. The Applicant submits herewith a power of attorney appointing the undersigned firm, a terminal disclaimer, and the required terminal disclaimer and the fee required under 37

CFR 1.20(d). The Applicant respectfully requests withdrawal of the provisional rejection.

Conclusion

The Applicant respectfully submits that the application now stands in condition for allowance. The Examiner is requested to telephone the undersigned in order to discuss any further objections, allowing Applicant to expedite a response.

Respectfully submitted,

MCHALE & SLAVIN, P.A.

3/11/05

Date



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